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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 940

ANASTASIO A. YLAGAN,
(Classified Postal Employee)
Petitioner,

vs.

THE UNITED STATES.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS AND BRIEF IN SUPPORT THEREOF.

ANASTASIO A. YLAGAN,
Pro Se.

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PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Anastasio A. Ylagan, petitioner, prays that "Writ of Certiorari Issue" to review the proceedings and reverse the judgment of the Court of Claims of the United States, and thereby grant an equitable relief for petitioner. The entitled petition No. 45948, was heard in said U. S. Court of Claims on December 6, 1943, by four justices namely Hon. Madden, Whitaker, Littleton, and Jones. A motion presented by attorney John B. Miller for defendant United States to dismiss the petition demanding back salaries, expenditures, and reinstatement to classified position within

U. S. Government, for breach of federal law section 43 Postal Laws and Regulations was granted by three justices Madden, Whitaker and Littleton; and, Judge Jones took no part in the decision, on March 6, 1944.

The citation of cases in the order of the Court of Claims for dismissal, confined to section 156 of the Judicial Code about filing of claims adversely to United States, should be within six years after the claim first accrues; e. g. *Smith* v. *United States*, 98 c. cls. 392, 396 (recovered from United States), and *Moriarty* v. *United States*, 97 c. cls. 338 (did not recover from United States because Moriarty was found guilty of lasches).

Facts of this present case *Ylagan* v. *United States*, for the consideration of the issue are as follow:

(1) The petitioner took and passed a written competitive examination on February 2, 1929, photostatic copy of which was submitted to U. S. District Court in San Francisco, California.

(2) The petitioner was offered an unclassified and temporary position to work for the City Hall at Los Angeles, California, by U. S. Civil Service Commission in San Francisco, California, and petitioner turned it down, and shortly thereafter in the same year, 1929, petitioner accepted a position as Janitor in the Postoffice at Los Angeles, California, began to work from July 1, 1929 to July 7, 1935, until he was wrongfully removed from the service.

(3) While working in said postoffice department, petitioner maintained good records, no absentee, his good personality, courteous to everybody, irreproachable conduct, and had never taken sick leave even for one day for over six years in the service.

(4) Petitioner is entitled to an entrance salary of $1,320.00 per annum as per public document of examination

paper taken and passed by petitioner, yet he was paid $1,020.00 for one year, then was raised to $1,080.00 per annum, which was the maximum he ever received until he was erroneously removed by new postmaster, Mr. Henry B. R. Briggs.

(5) The malicious motive of removal shows in the letter from U. S. Civil Service Commission, Washington, D. C., dated June 26, 1935, 16 days suspension from the service without pay was hidden from the records by the removing officer.

(6) Ever since petitioner was wrongfully removed from First Class U. S. Postoffice at Los Angeles, California, he presented and taken up his complaints by writing to different administrative agencies and authorities of the United States, namely, U. S. Civil Service Commission, Postmaster General, Congress of United States in Senate and House of Representatives, U. S. Comptroller General, U. S. Treasury Department, etc., and for informations, please see the public documents in letters written on the last pages of this brief.

(7) For failure of different parties mentioned above, to give immediate proper attention, action and consideration, petitioner moved to San Francisco, California, whereby he filed three civil suits in different occasions. The first suit was only for $5,000.00 and reinstatement, under Judge Hon. Harold Louderback; then upon dismissal with prejudice, other suits were brought up to a maximum nominal amount of $10,000.00 and reinstatement to classified position immediately and unconditionally after payment has been made, as demanded in the petition. The second civil suit was under Judge Hon. Michael J. Roche, and the third suit was under Judge Hon. A. F. St. Sure, filed on March 15, 1941, was dismissed on July 11, 1941, without explanation from finding of facts and conclusions of laws involved, and de-

spite motions by petitioner to give comment on the aspects and categories in pro or con based upon considerable merits in the case, said petitions were ignored entirely and even dismissed without hearing in an open court; hence petitioner voluntarily came to Washington, D. C., for continuation of prosecution of his claims to U. S. Court of Claims and Supreme Court of the United States.

(8) A letter dated May 24, 1935 signed by Mr. Henry B. R. Briggs, New Postmaster, was without cause or specific mention of charges as required by U. S. Statute 37, page 555, or section 43, postal rules and regulations pertaining to precedents in removing classified employees; and the fact is the language and statements used were uncertain, immaterial, irrelevant and inadmissible evidence as cause, so on May 26, 1935, petitioner answered said removing officer in the proper and adequate manner. These letters are on last pages of this petition.

(9) The aforesaid wrongful discharge of petitioner from the service has seriously caused great damage to petitioner's good reputation as a law abiding American national, to his career, citizenship, and irreproachable conduct; and that he was prevented from performing his duties in the Postoffice Department without fault of his own.

(10) The legal opinion of professional lawyers who have carefully examined the important papers of petitioner Anastasio A. Ylagan, namely, attorneys Saburo Kido, Edward D. Mabson, and others, have substantiated the evidenciary fact, that, petitioner supra, beyond any reasonable doubt is entitled to an equitable relief.

Arguments and Citations from Plaintiff and Defendant, in U. S. Court of Claims heard by four Justices, reported in here by A. A. Ylagan, Petitioner in Personam.

The following statements are not included in the Certified Copy of records from clerk's office of U. S. Court of Claims, as follow:—

A Defense Attorney impliedly waived the right to argue on the question of facts when he said; it is unnecessary to talk about the facts of this case if the petitioner is guilty of lasches, so said defense attorney cited the case of *O'Neil* v. *United States* (1920), 56 C. Cls. 89. Plaintiff O'Neil sought to recover back salary for an alleged wrongful removal from office on February 28, 1907, and his petition was filed on June 18, 1919. Plaintiff Ylagan in propio persona answered that O'Neil case did not use his diligence to filing his claim with proper government authorities in due time within six years limitation provided in the Civil Service Rules or Act of August 24, 1912, 37 U. S. Stat. 555, that is the Judicial Code section 156 in title 28 section 262. Plaintiff Ylagan profounded a very similar case of *Lippitt* v. *United States,* 14 C. Cls. 148; as well the civil case of *Utah Power & Light Co.* v. *United States,* 67 C. Cls. 602, which cases affected a class of cases not barred by statute of limitation. In the case of Utah Power & Light Co. the court said, application for a refund of deposit for use of any land or resources of the National Forest are conditions precedents to applicant's right to sue United States, and the limitation fixed by said statute runs from date of denial by Secretary of Agriculture to refund the money claimed. Also in the case of *Lippitt* v. *United States,* the court decided that, where a claim was presented to the proper executive department within six years after it first accrued, and having held by such department without action until more than six years have

elapsed, and then the case was transmitted to the court of claims because it involved controverted question of law, the statute does not bar the consideration of the case upon its merits. Henceforth Plaintiff Ylagan concluded, it is true his claims were not filed with the Court of Claims within six years, however he used his bona fide diligence to filing his claims with Postmaster General, U. S. Civil Service Commission, U. S. Comptroller General, Secretary of U. S. Treasury, President F. D. Roosevelt, and with the Congress of United States, and then he filed three suits in different occassions in U. S. district court in San Francisco, California, and citation in said U. S. district court about its jurisdiction profounded by Plaintiff was under the Tucker Act, title 28 section 41 U. S. C. A. which says, that U. S. district courts have an original jurisdiction concurrent jurisdiction with the Court of Claims, when the claim is not sounding in torts, and the amount in the claim is limited to $10,000.00 (Ten thousand dollars). Furthermore Plaintiff Ylagan had mentioned, the last suit was dismissed by U. S. district court in San Francisco, California, on July 11, 1941, with racial prejudice, and as a matter of fact, the last suit was not even heard in an open court; hence, Plaintiff Ylagan decided to come to Washington, D. C. to continue his prosecution within U. S. Court of Claims and Supreme Court of United States.

Questions & Answers—That have bearing for recovery.

1. Q. Is Petitioner A. A. Ylagan a classified employee? A. Yes, You may see a photostatic copy of examination taken and passed on Feb. 2, 1929.

2. Q. Has petitioner been removed in violation of any federal law? A. Yes. Section 43 postal regulation has been breached by removing officer, consisting in his failure to serve petitioner with specific charge he may have

against said petitioner; it should be a charge not by implication or mere hearsay.

3. Did petitioner use his good diligence in filing his claim with government officials? A. Yes. He filed his complaints of steady prosecution with government authorities of the United States Government such as Postmaster General, U. S. Civil Service Commission, President of United States, United States Courts, etc. You may see the public documents received from different government officials, in the last pages of this brief.

4. Q. Is petitioner guilty of lasches in the filing of his claims within six years with the U. S. Court of Claims, as required by Section 156 Judicial Code (Title 28 Section 262)? A. No, because a delay in filing his claims with U. S. Court of Claims was due to failure of government officials to whom said claims were first brought for immediate and proper attention, action and consideration.

5. Q. Did petitioner present to United States Courts including U. S. Court of Claims, a citation of cases analogous to his case for a ground of his recovery? A. Yes. Petitioner A. A. Ylagan, cited the cases of *Lippitt* v. *United States*, 14 C. Cls. 148; *Utah Power & Light Co.* v. *United States*, 67 C. Cls. 602, which both cases affected a class of cases not barred by statute of limitations in Title 28 section 262. Likewise a class of cases of employees who recovered from United States, *e. g. Buehring* v. *United States* 45 C. Cls. 404, *Corcoran* v. *United States*, 38 C. Cls. 341 etc.

Illucidation. The question is not who has the power to remove a classified employee, but, was there a breach of constitution or any laws of the United States? Answer is Yes.

Conclusions of Laws Involved.

From U. S. Civil Service Book year 1937, page 212. *Regulation Five* Section 7. Footnote. It says, Laborers if first and second class postoffices are classified employees as they have been taken from register of classified employees who have taken and passed an examination. Likewise, *Title Five* Section 638, illucidated only persons who have passed civil service examination shall be entered classified employees. T. 5 sec. 670 (2) Any person who has acquired a competitive examination, retains that status although he may had been appointed to unclassified position. Rule VII U. S. Civil Service, page 31, 32, it says, probationary period of employment is one year the most, and retention of employee in the service beyond probationary period confirms his absolute appointment.

Section 43 Postoffice regulation mentioned in a letter of removal dated May 24, 1935. It says, no person in the classified civil service of United States shall be removed therefrom, except for cause, and the charges or reasons for removal shall be in writing together with affidavits in support thereof, and served to a person whose removal is sought, and he shall be allowed a reasonable time for personally answering the charges against him. Postal Laws Book Year 1940, page 52.

Postal Laws Book Year 1940, page 223. It says, Section 454, under civil service rule two, all employees of post offices of the first and second class shall be included in the classified postal service. *36 U. S. Stats. 1092,* March 3, 1911, It says, Reprimand or suspension from the service for slight offenses shall not exceed thirty days with loss of pay for more serious ones.

This case was filed after over six years, not barred by statute of limitation.

Utah Power & Light Co. v. *United States,* 67 C. Cls. 602. Section 156 of the Judicial Code in title 28 sec. 262 was well discussed. The court of claims said, that failure of government authorities to whom the claim was first brought for adjudication, was the cause of civil suit's delay, and that the six years limitation in the statute relative to filing of claims adversely to United States, cannot bar this civil suit in this court, because, the responsibility in delay of action rested not on complainant but on government authorities vested with jurisdiction to make an adjustment demanded by plaintiff.

Another case not barred by limitation. *Lippitt* v. *United* States, 100 U. S. 663. The court said, since the claim was presented at the proper department of United States, within six years after it first accrued, under the act of Congress on March 3, 1863 and June 25, 1868, there are two ways by which the court should acquire jurisdiction not barred by the statute of limitation which is six years limit in filing suit against United States; namely, First, by voluntary prosecution of claimant; Second, by transmission of claim to the court by an authority to whom it was first brought. The court further stated, that it seems impossible to ascribe to the legislative intent the inequitable purpose of barring the claim by reason of lapse of time for which the defendant United States through its department had caused a delay and not the claimant was responsible, e.g. *Clark* v. *United States,* 96 U. S. 37. The court stated further that, a claimant who finds himself subject to a delay in an executive department, which threatens to carry the claim unadjusted beyond the time fixed for barring said claim, complainant has always his remedy open in this Court by commencing a civil suit within the proper time he may always arrest the bar, and thus procure through machinery of this Court the settlement of claim that was denied him through departmental machinery. Moreover, the Court concluded, the

claimant has always at first his election to carrying his claim to the executive department or bring it to the court, and he can remove it from executive department and bring in here at his pleasure. *Winnisimmet* v. *United States,* 12 C. Cls. 329. For other informations, please see the *Congressional Act* on March 3rd., 1863, (12 U. S. Stats. L. 765, sec. 10). It says, six limitation does not extend to claims taken in the Executive Department. An Act of June 25th, 1868 (15 Stat. L. 75, section 7) It says, the act was intended to confer on the Executive Department a judicial means of investigating the merits of the case.

Jurisdiction of U. S. District Courts including Circuit of Appeals. Title 28, Section 41 U. S. C. A. It says, U. S. district courts have an original jurisdiction on all claims against United States not sounding in Torts, whereby the amount of claim is limited to $10,000.00, confined to a breach of U. S. Constitution or any other laws of United States. Subsection 6, says, it has jurisdiction of all cases arising out of breach of postal laws; Subsection 12 says, it has jurisdiction for deprivation of any civil rights for recovery of damages to his person or property; Subsection 14, it says, jurisdiction to recover certain offices granted by U. S. constitution; Subsection 17, it says, jurisdiction on suit by an alien for violation of international law or treaty; Subsection 20, it says, jurisdiction on suit or suits where the amount of claim for money does not exceed $10,000.00 (Ten thousand dollars). 36 U. S. Stat. 1093. The Court shall issue an injunction permanent, and enter all such orders, decrees, and issue all such customary writs as may be necessary or convenient to carry out the enforcement of laws.

These are cases who recovered back salaries, as follows: *Wickersham* v. *United States,* 201 U. S. 390; *Buehring* v. *U. S.,* 45 C. Cls. 404; *Corcoran* v. *U. S.,* 38 C. Cls. 341; *Steele* v. *U. S.,* 40 C. Cls. 403; *Fitzsimons* v. *Brooklyn, N. Y.,* 102 N. Y. 536. etc.

Writ of Mandamus to Pay Salary is Operative. The Court of Appeals of the District of Columbia approved a writ of Mandamus to pay all back salaries. *Kalbfus* v. *Siddons et al.*, 42 Wash. L. R. 354. Plaintiff was illegally removed from position as assistant assessor.

Salary or Wages are questions of contract whether salary or wages be fixed by law or by the department, under authority of the law, the Court has jurisdiction thereof, *Patton* v. *United States*, 7 C. Cls. 362; *Shelton* v. *U. S.*, 8 C. Cls. 487.

Claim for Salary or Wages is statutory, and it exists not on any contract with the government express or implied, but, upon the act of Congress which provides salary, *Emby* v. *U. S.*, 100 U. S. 680; affirmed, 12 C. Cls. 455; Cf. *Patton* v. *U. S.*, 7 C. Cls. 362. Article 3 sec. 1, of 14 amendment of U. S. Constitution says, there shall — equal protection upon property and civil rights.

Illustration of case recovered from United States. *Corcoran* v. *United States*, 38 Ct. Cls. 341. Facts. Plaintiff was a letter carrier in the postoffice at Brockton, Mass. Decided on February 24, 1903. Plaintiff Corcoran was suspended and served with preferred charges against him, consisting in the statement made by him (plaintiff) about failure of certain bank in Minneapolis, Minn. which statement was communicated by a woman to whom he had spoken, to another woman of a meager knowledge of English language. There were eleven charges preferred against Corcoran, and if those charges became cumulative, they would doubtless afford ample grounds for serious action against Corcoran. *The Court* held, no executive officer has authority to deprive a subordinate officer of his lawful statutory salary by mere implication of alleged trivial charges, thus the court ordered he be reinstated, and thereby he was reinstated, and was paid with back salary during his suspension from the service.

Another case with illustration. *Chas. E. Steele* v. *U. S.*, 40 C. Cls. 403. Facts. Plaintiff Steele, a letter carrier from Houston, Texas, was suspended by Postmaster General for having killed a man while he was off duty as carrier. Steele is exceptionally orderly man, and without provocation would not have committed such an act of murder. Both postmaster general and assistant Superintendent of Mails contended that homicide is the most favorable and justifiable cause in removing classified employee, and despite of the cause or charges against Steele, he was found not guilty, because he merely acted in self-defense. The court said, statutory compensation cannot be deprived of him, unless the power to deprive of salary was actually exercised expressly and not indirectly or by mere implication. In the case of *Buehring* v. *United States,* 45 C. Cls. 404, the court said, only Postmaster General can suspend a letter carrier. In the case of *Fitzsimmons* v. *Brooklyn,* N. Y., 102 N. Y. 536, the court held for complainant not because of any contract of employment between employer and employee, simply due to the fact he was prevented from performing his duties without fault of his own, so it was held, he is entitled to all emoluments in money claim.

34 Corpus Juris Sec. 1193 P. 774. Decision on the Merits. Unless the proceeding and judgment upon the case afforded full legal opportunity for an investigation and determination of the merits, the judgment will not operate as a bar to a subsequent suit in the same cause of action, *Williams* v. *McDonald,* 180 Cal. 160, 50 Fed. 277.

39 A. L. R. 427. Equitable Relief Against Judgment. On page 2334, permitting new suit because the court has dismissed for having no jurisdiction. A mistake in the form of remedy is not negligence in the prosecution of a new suit conferring the right of bringing of a new action. *Flousney* v. *Jeffersonville,* 17 Ind. 169; 79 Am. Dec. 468. R. C. L. 17

Sec. 185 on page 821. Amendment in amplifying original pleadings to a petition which sets up a new cause of action, it gives greatest precision and may be upheld without regard to statute of limitation. *Cincinnati R. R. Co.* v. *Gray,* 101 Fed. 623.

U. S. Court of Claims Digest by Stull (1940), under the special Jurisdictional Act of August 19, 1935. The Court held that Congress of United States recognized the right of plaintiff to a relief, and jurisdiction and is conferred upon the court to determine the amount of claim on its merits, and enter the judgment for the amount of actual damages. e. g. *Mansfield* et al., 89 C. Cls. 12.

Records and Documents of Fed. Government are admissible in evidence, *State* v. *Bolen,* 254 F. 445; 142 Wash. 653, about finger print in murder case for genuine-ss, year 1927.

Right of Petitioning. The right of government employees to petitioning Congress, etc. shall not be interferred, 37 U. S. Stats. 555, year 1912.

U. S. District Courts Jurisdiction. Corpus Juris (1937), Federal courts don't issue injunction except in support of established property right where there is no adequate remedy at law, and issuance is necessary to prevent irreparable injury, *Bradford* v. *Hart,* 84 F. (2nd) 722; Affirmed 15 F. Supp. 426.

Relief in equity is justified where there is no adequate remedy at law. Judicial Code section 267, title 28 U. S. C. A. 384, *Woner* v. *Lewis,* 13 F. Supp. 65; appeal dismissed, 80 F. (2nd) 1023.

U. S. district court in Nevada. Jurisdiction where the question arises under the laws of United States, Constitution, art. three, section one, *Dewar* v. *Brooks,* 16 F. Supp. 636.

Report of Facts. The court shall execute the reference by a report of facts found and its conclusions, *Montgomery* v. *U. S.* (1914), 49 C. Cls. 574.

Existing Law. If after examination of the subject matter it appears to the court that the claimant might have preferred his claim under the existing law, he shall be treated as having done so, *Post* v. *U. S.* (1913), 49 C. Cls. 105.

Appellate Court, may examine if there is competent evidence to support the findings, and then reverse the judgment, *United States* v. *Clark*, 96 U. S. 37; 24 L. Ed. 696, etc.

Statutory restriction, the U. S. Civil Service Commission expressly provided jurisdiction to enforce statutory restriction about removal of employees, *Perkins* v. *U. S.*, 20 C. Cls. 438; affirmed 116 U. S. 483.

Removal of employee in violation of restriction, the removal is ineffective, and the removed employee is entitled to his compensation, *Perkins* v. *U. S.*, 178 U. S. 548. The U. S. Civil Service Commission shall investigate irregularities when asked by the President of the United States, 14 Amendment of U. S. Const. about life, property, civil rights, etc.

Civil Service in general are persons in the employment of government and whose salary is directly or indirectly fixed by law, *Baker* v. *U. S.*, 4 C. Cls. 227 (1868).

Outside Employment. Even — the claimant obtained employment and received salary during the time he was deprived of his office or job, he would still have the right to maintain an action to recover salary, and that he is entitled thereto. Leading cases, *Fitzsimmons* v. *Brooklyn, N. Y.*, 102 N. Y. 536; *Houston* v. *Estes*, 35 Texas Circ. App. 99; *Everill* v. *Sivan*, 20 Utah 56; *State* v. *Waldrige*, 153 Mo. 194, etc.

Remark: In the present case *Ylagan* v. *United States*, the petitioner says, no use to discuss any citation of the cases in U. S. government brief, because, all the cases presented therein are defective ones. *Ylagan's* case is a perfect one against United States.

Assignment of Errors.

The errors which the petitioner urges as grounds for granting a writ of certiorari and reversing the judgment of the Court of Claims are:

(1) The Court denied the petitioner due process of law.

(2) The Court failed to go into considerable merits of the case, despite of a formal letter from petitioner addressed to the Court on February 13, 1944, which requested due consideration.

(3) The Court's decision was not in conformity with facts cited by petitioner, that his claims have steady prosecution within United States District Court in San Francisco, California; Government officials of the United States; and lastly in the Court of Claims of the United States, Washington, D. C.

(4) The Court did not consider the citation of cases such as *Lippitt* v. *United States,* 14 C. Cls. 148; *Utah Power & Light Co.* v. *United States,* 67 C. Cls. 602; *Buehring* v. *United States,* 45 C. Cls. 404, etc., analogous cases for ground of recovery demanded in the petition.

(5) The citation of cases, such as *Smith* v. *United States,* 98 C. Cls. 392, 396, recovered from United States; and *Moriarty* v. *United States,* 97 C. Cls. 338, did not recover from United States, because, petitioner Moriarty was guilty of lasches, as the law of contract is, if there is no specific time for payment, a demand for payment should be immediately after delivery and acceptance of goods, and not after six or over. Those two cases Smith & Moriarty came on the record of dismissal of petition, on March 6, 1944; three justices concurred and one justice took no part in the decision of this present case *Ylagan* v. *United States.*

Reasons for Granting the Writ.

(1) This case presents the whole truth that, the petitioner has used his diligence in filing his claims with different departments of the United States as well with Hon. Franklin Delano Roosevelt, President of United States, and that the cause of delay in filing with the Court of Claims was due to machineries in negligence of parties concerned or vested with jurisdiction to grant an adequate remedy that has been sought; and for information, you may kindly see all correspondences or letters in the last pages of this petition together with brief.

(2) In the case of *Lippitt* v. *United States*, 100 U. S. 663, plaintiff recovered from United States. The court said, since the claim was presented within six years after it first accrued, therefore, it invokes the act of Congress of United States on March 3rd., 1863 and June 25th., 1868, which explained the two ways by which the court should acquire jurisdiction. First by voluntary prosecution of claimant; and Second, by transmission of claim to court by the department whereby it was firstly taken for its adjudication. Likewise the court profounded with illucidation that, it seems impossible to ascribe to the legislative intent the inequitable purpose of barring the claim by reason of lapse of time for which defendant through its department caused a delay, and not the claimant was responsible, e. g. *Clark* v. *United States*, 96 U. S. 37.

(3) The U. S. district court in San Francisco, California, should have had adjudicated this claim long ago, if the judges there did not exercise with bias and racial prejudice against petitioner A. A. Ylagan, thus the amount of claim should not have been growing forever.

(4) Money claim in this present petition is cumulative, growing forever; hence, petitioner, A. A. Ylagan, says a

punitive damage is $100,000.00 (One hundred thousand dollars), for itemized statement as follows: 16 days no pay in 1934; all back salaries, up to the time he will be reinstated; attorney's fee for ten years fight; Court expenses; three times services paid U. S. Marshall in San Francisco, California, for delivering summons to U. S. district attorney in San Francisco, California; telephone calls; secretarial works hired; Career as a lawyer was ruined; Irreproachable conduct was ruined; printing of briefs; traveling expenses of petitioner from San Francisco, California, to Washington, D. C., and other miscellaneous expenses such as leaflets distributed in San Francisco, California, post-office stamps used, etc.

Remark. Although the nominal amount of claim in money mentioned above is $100,000.00, however your petitioner, A. A. Ylagan, is willing to accept whatever a fair justice due him for an equitable relief.

(5) There is no other court on the land, neither other government authorities perhaps, that can grant an equitable fair justice being sought in this petition except the Supreme Court of United States.

Wherefore, it is respectfully submitted that this petition should be granted.

Cordially yours,

ANASTASIO A. YLAGAN.

Exhibits of Public Documents in Letters.

The following letters are written on the records of an appeal in the Supreme Court of the United States in order to arouse both the public opinion and interest and that the Congress of United States could safeguard any aggrieved party who has claim adversely to the United States to avoid further complications due to failures of government authorities vested with jurisdiction in dealing with plaintiff seek-

ing an equitable remedy. Any failure of government authorties to grant a relief, might cause an aggrieved party to commit a crime although the petitioner is of irreproachable conduct as in the present case *Ylagan* v. *United States*. These letters will create an impression of considerable works done and being done; and they had been copied from the originals; and had been certified by A. A. Ylagan, petitioner, as follow:

U. S. Senate Committee on Military Affairs. March 23, 1939. Mr. Anastasio A. Ylagan, 2085 Bush Street, San Fran., Calif.

Dear Mr. Ylagan: The Senator asked me to thank you for your letter of March 1st concerning your claim. Enclosed herewith you will find a copy of a letter which the Senator has recently received from the Post Office Department concerning your case. If you will take this matter up with your Congressman, and he will introduce a bill in your behalf, you may be assured the Senator will support it when this bill reaches the Senate. Sincerely, Delwin W. Smith, Secretary to Senator Downey.

Congress of the United States, House of Representatives, Washington, D. C., January 31, 1941. Mr. Anastasio A. Ylagan, 2087 Bush Street, San Francisco, California.

Dear Mr. Ylagan: This will acknowledge receipt of your letter of January 18th, with enclosure. While this is a matter over which members of Congress have no jurisdiction or control, I am going to look it for you and see if anything can be done. As soon as I have further information I will write you again. Cordially yours, Tom Rolph, M. C.

The Resident Commissioner of the Philippines, Pacific Coast Agency, 405 Montgomery St., San Fran., Calif., August 7, 1941.

Dear Mr. Ylagan: This is to acknowledge receipt of a copy of your letter to Hon. Franklin D. Roosevelt and a copy of your open letter to the Secretary of the Department of Justice. We wish to call your attention to the libelous

character of your letters. We suggest that you act with caution specially in dealing with judges because, you must remember that anything that you may do or say will make matters worst for you and our people. If by evidence you can prove that you are discriminated against and deprived of a fair trial, we will try our best to protect your rights as a citizen of the Philippines and national of the United States. Very sincerely yours, J. M. Elizalde, Resident Commissioner to the United States. By C. T. Alfafara, Secretary.

United States Postoffice, Los Angeles, California, August 10, 1933. Mr. A. A. Ylagan, 323 N. Broadway, Apt. 108, Los Angeles, Calif.

Dear Sir: I wish to acknowledge receipt of your letter of August 9th asking that consideration be given to your request for promotion and in reply wish to advise that in as much as the service is now functioning very satisfactorily with our present arrangement of personnel, it would not be considered expedient to make any such change as you request, particularly at this time. Respectfully yours, P. P. O'Brien, Postmaster.

Frank F. Merriam, Governor, State of Calif. May 14, 1936.

Mr. Anastasio Ylagan y Agoncillo, 1421 Sutter St., San Fran., Calif.

Dear Mr. Agoncillo: In response to your letter to Governor Merriam may I say that the matter which you present comes under the direction of the Federal Government rather than the State Government. For that reason it will be impossible for us to assist you in your difficulty. We would be glad to cooperate if it were possible. With kind regards, I am, Sincerely yours, Walter F. Dexter, Secretary.

Congress of the United States, House of Representatives, Washintgon, D. C. August 22, 1935. Mr. Anastasio Ylagan y Agoncillo, Broadway Hotel, 205 North Broadway, Los Angeles, Calif.

Dear Mr. Agoncillo: Acknowledgement is made of your letter of August 20 in which you enclosed carbon copy of

letter addressed to United States Congress. I have taken your matter up with the proper authority at this end and will communicate with you further, just as soon as I have additional information. Please be assured of my desire to be of all possible assistance to you in this connection, and with every good wish, I am, Very cordially yours, Charles Kramer, M. C.

Congress of the United States, House of Representatives, Washington, D. C. June 22, 1936. Mr. Anastasio Ylagan y Agoncillo, Catholic Filipino Club, 1421 Sutter St., San Fran., Calif.

Dear Sir: Your letter of June 5th addressed to the Philippine Resident Commissioner. Regarding the request contained in your letter under acknowledgement, please be advised that it is Commissioner Parede's opinion that your case partakes too much of a personal nature that he feels it to be outside of this jurisdiction to intervene in the matter. From your letter, as we gather it, you claim personal pecuniary damages for having been removed without justifiable cause. As you probably are well aware, there is no vested right to any public office, because there is no compulsion attached to its acceptance by the appointee or nominee. If your case is meritorious, as the Commissioner gleans from the facts stated in your letter under acknowledgement, the authorities before whom you have presented your case will I am sure give that justice and equitable treatment for which the American people have always stood for. In view of the above considerations, I have been instructed to inform you that the Commissioner exceedingly regrets that your case falling, as it does, outside of his jurisdiction, feels that he cannot intervene. However, if in any other way he can be of service to you, please do not fail to write. Sincerely yours, Quintin Paredes, Jr. Secretary.

Treasury Department, Washington. February 25, 1938.

Dear Mr. Ylagan: This will acknowledge your letter of February 22nd, together with carbon copies of correspondence you have addressed to the President. The case of

which you speak is not one which would come under the jurisdiction of the Treasury Department, and we therefore would advise you to consult the officials of the court in which you have presented your case for information about its progress. Very truly yours, Wm. H. McReynolds, Administrative Assistant to the Secretary. Mr. Anastasio A. Ylagan, 2085 Bush Street, San Francisco, California.

Office of the Clerk, Court of Claims of the United States, Washington, D. C. May 7, 1943.

Mr. Anastasio A. Ylagan, 1608 Geary Street, San Fran., Calif. Dear Sir: Your letter of May 5, 1943, addressed to the Honorable Attorney of United States Court of Claims was received this day. I beg to inform you that this office does not have attorneys to represent prospective claimants. You are further informed that complaints must be filed by those who feel that they have a cause of action against the United States, as provided for in the statutes governing the jurisdiction of the Court of Claims. Legal advice must be sought from other sources. Very truly yours, John W. Taylor, Assistant Clerk.

Commonwealth of the Philippines, Department of Justice, Manila. April 22, 1941.

Mr. Anastasio A. Ylagan, 2087 Bush Street, San Fran., Calif., U. S. A. Sir: This is to acknowledge the receipt of your letter of March 3, 1941, inquiring as to whether or not your case against the United States Government in connection with your removal from a classified position in the Postoffice at San Francisco, California, may be litigated in the Philippines, and to inform you that the Secretary of Justice, as Attorney-General, is not authorized by law to render opinion or give advice to persons other than those mentioned in Section 83 of the Administrative Code, as amended. Respectfully, For the Under-Secretary, Eusebio Cachero, Administrative Officer.

United States Civil Service Commission, Washington, D. C. October 26, 1935.

Mr. Anastasio A. Ylagan, Catholic Filipino Club, Room 4, 1421 Sutter Street, San Fran., Calif., My Dear Mr.

Ylagan: In reply to your letter of October 14, 1935, you are informed that this Commission has no authority in law to grant you the right to bring court action against the Federal Government. Any appeal you may desire to make relative to your removal from the service must be addressed to the First Assistant Postmaster General, Division of Post Office Service, Washington, D. C., for consideration. Your letter of October 14, with inclosure, is being placed on file. By direction of the Commission: Very respectfully, Wm. C. Hull, Executive Assistant.

Congress of the United States, House of Representatives, Washington, D. C. November 5, 1935.

Mr. Anastasio Ylagan y Agoncillo, Catholic Filipino Club, 1421 Sutter Street, San Fran., California. My Dear Mr. Agoncillo: Inasmuch as you are now a resident of the Congressional district which I believe is represented by Honorable Richard J. Welch, I would suggest that you refer your mattter to him. It has long been an established custom among members of Congress that one member will not infringe on the territory of another member and for that reason it is necessary that I refer your matter to him. Hoping that your matter will be straightened out to your satisfaction, I am, Very cordially yours, Charles Kramer, M. C.

Franck R. Havenner, Fourth District, California. Congress of the United States, House of Representatives, Washington, D. C. November 13, 1940.

Mr. Anastasio A. Ylagan, 2087 Bush Street, San Fran., Calif. Dear Mr. Ylagan: In reply to your letter to Mr. Havenner, please be advised that it will not be possible for him to introduce a bill in your behalf during the remainder of this session of Congress. The House Committee on Claims, to which this bill would be referred, is not considering any legislation at this time. Sincerely yours, Madaline E. Callahan, Secretary.

September 8, 1936.

Mr. Anastasio A. Ylagan, Catholic Filipino Club, 1421 Sutter Street, San Francisco, California. Dear Sir: On behalf of the Philippine Bar Association I wish to acknowl-

edge receipt of your letter dated August 10, 1936, wherein you state your grievances on your removal from the Postoffice of Los Angeles, California. You ask for financial support. I am sorry to say that the Philippine Bar Association does not count with any funds for such a purpose. It seems to me that the appropriate thing for you to do would be to appeal to the Legal Aid Bureau as was suggested to you by the Department of Justice. If this remedy fails, you may ask for the assistance of the Philippine Resident Commissioner in Washington, who might be able to indicate to you the proper steps to be taken and who might even — able to make representations on your behalf before the Postmaster General in Washington. Very truly, E. P. Revilla, President, Philippine Bar Association.

United States Civil Service Commission, Washington, D. C. June 26, 1935.

Mr. A. Ylagan, Arcade Postoffice, Los Angeles, California. Dear Mr. Ylagan: Careful consideration has been given your letter of May 21, 1935, and you are advised that the records of the Commission show that you are at the present time serving as cleaner in the Los Angeles, California, post office, at a salary of $1080 per annum. There is nothing in the files of this office to show that you have been separated from the service, therefore, no action may be taken by this office in connection with your case. Rate of pay, deductions from the salary in connection with the terms of the Retirement Act, assignment to duty and seniority among the regular personnel of a post office are all matters coming within the jurisdiction of the Postoffice Department. It is suggested that you communicate with your postmaster who will be able to advise you fully with regard to these matters. By direction of the Commission: Very respectfully, Wm. C. Hull, Executive Assistant.

Department of Justice, Washington, D. C. June 15, 1940.

Mr. Anastasio A. Ylagan, 2087 Bush Street, San Fran., Calif. Re: Anastasio A. Ylagan v. United States, In the United States District Court for the Northern District of California. Sir: Your letters of May 17 and June 5, 1940,

addressed to the President have been referred to this Department for reply; and receipt is also acknowledge- of your letters of May 9 and June 1, 1940, addressed to the Solicitor General, relating to the above-entitled case. These letters complain of the action of United States District Judge Roch in the case. I have to advise you that this Department can take no action in the matter. Respectfully For the Attorney General, Francis M. Shea, Assistant Attorney General.

Treasury Department, Office of the Secretary, Washington, D. C. August 13, 1936.

Mr. Anastasio Ylagan y Agoncillo, 1421 Sutter Street, San Francisco California. Dear Sir: Receipt is acknowledged of your letter of August 7, 1936, relative to your removal from the Postal Service in Los Angeles, California. As the matter about which you complain appears to be one which comes under the Postoffice Department, I can only suggest that you write to the Postmaster General, Washington, D. C. Very truly yours, J. E. Harper, Chief, Division of Appointments.

U. S. Civil Service Commission; Twelfth United States Civil Service District, Office of the Manager, San Fran., Calif. November 25, 1941. Mr. Anastasio A. Ylagan, 1902 Bush St., San Francisco, California.

Dear Mr. Ylagan: In reply to your letter of November 9, 1941, you are informed that the Civil Service regulations in connection with reinstatement do not require the payment of back salary from the date of removal to the date on which reinstatement is authorized, to an employee who was previously separated from a position in the government service. This office is without jurisdiction to request any department to reinstate you or to pay your salary you claim due you from the date of your removal to the date on which reinstatement may be accomplished. Very truly yours, Harry T. Kranz, District Manager.

Letter from Anastasio A. Ylagan, Petitioner to Hon. Sheridan Downey, Senator from California. It was dated December 16, 1943.

Dear Hon. Senator Downey: The undersigned is a young man from San Francisco, California, who has a civil case Anastasio A. Ylagan vs. United States No. 45948, In U. S. Court of Claims, Washington, D. C. The other day I wanted to see you in your office there to get personally acquainted, and you were not there but, your lady secretary with whom I had a short talk about my humble approach seeking a moral support or cooperation confined to both humanitarian and Christian sympathy which will be surely reciprocated in any way you would like me to do for you. I desire if you could kindly intervene as I feel and do believe no justice was given me from the very beginning of my approach to all parties vested with jurisdiction over claims adversely to the United States. There was an awful complication already in the past, and I don't want anymore if I could help it, due to the fact I, being a human being, I am liable to hit the feeling of other good Americans like my good friends and the friends of my defunct father many years ago. If they have a wrong impression against me and they want to homicide me by force, I wish if you could tell or write them, my suggestion is, they should kill me in the Cross like Jesus Christ, therefore the murderers will be publicly known thus it would be fine and dandy to me. I do hope you would take this present letter as a contract binding between you and me; so, you being a legal minded man and Senator, you probably could do better in any way might deem best to speed up an equitable relief being sought in my petition filed with aforesaid court of claims; hence, may I hope to receive your lovely advice sooner is the best? Very sincerely and respectfully yours, Anastasio A. Ylagan, LL.B. representing as a lawyer in propio persona.

Answer from Hon. Sheridan Downey, Senator from California, Chairman, Committee on Civil Service, Washington, D. C. It was dated, December 22, 1943. Mr. Anastasio A. Ylagan, 1913 Pennsylvania Ave., N. W., Washington, D. C.

Dear Mr. Ylagan: Your letter of December 16th has been received and read with sympathetic interest. I deeply re-

gret to advise you that it is an established policy of my office not to intervene in legal cases and to never, under any circumstances, offer legal advice. I do wish there were some way I could assist you, but under the circumstances I do not believe this is possible. Please accept my hope that your case will eventuate to your entire satisfaction. Sincerely, Sheridan Downey.

First Assistant Postmaster General, Washington, D. C. Feb. 15, 1935. Mr. Anastasio A. Ylagan, Postoffice Cleaner, Los Angeles, Calif.

My Dear Mr. Ylagan: The Postmaster General has referred to me for attention your letter of January 27, 1935, concerning your letter of January 8 and 14, 1935. Your letters have been referred for appropriate consideration to the Acting Postmaster of Los Angeles. Yours very truly, W. W. Howes, First Asst. Postmaster General.

This is a letter of removal which breached a Federal Law, Section 43 Postal Regulations, about classified employees. United States Post Office, First Class Office, Los Angeles, Calif. Dated May 24, 1935. Mr. Anastasio A. Ylagan, Cleaner, Arcade Annex, Los Angeles, California.

Dear Sir: In spite of every effort to bring to you the realization and necessity of faithful performance of your work, and observance of instruction of your supervisors, you continue to disregard all such efforts. Following your suspension from duty last December, you were transferred to work at Arcade Annex in the hope that this change of work and supervisors might bring you to the realization of your duty; however, you have been reported to me several times by Superintendents of Mails Spence and Maynard, as continuing to disobey orders. I personally counseled you to change your attitude and become a good worker in the post office. None of these efforts to bring you to your senses have had any effect. I, therefore, reluctantly am compelled to prefer charges against you, as above, and in accordance with the provisions of Section 43 Postal Laws and Regulations. You are instructed to make a written reply to these charges, your letter to reach my office by Saturday, June

first, stating any reason you may have, why you should not be separated from the postal service. Sincerely, Henry B. R. Briggs, Postmaster.

This is a reply to the above letter. Dated May 28, 1935. Mr. Henry B. R. Briggs, Postmaster.

Dear Sir: Your letter dated May 24, 1935, received today. I want to emphasize once more my life must be safe, and never mind my job if you believe or anybody believes right to take away from me my job by force of arms with false and aggressive motives. I am demanding damages for me in my registered letter dated July 10, 1935, addressed to Postmaster General Hon. James A. Farley. Sgd. A. A. Ylagan.

For all parties concerned, please see a letter of June 20, 1935, exposed sixteen days off work in December 1934, no pay, hidden from the records as per letter of U. S. Civil Service Commission, at Washington, D. C. Also please see a letter from old Postmaster of June 6, 1932, with whom petitioner A. A. Ylagan had worked for five years without any single trouble. Old postmaster P. P. O'Brien has mentioned that petitioner A. A. Ylagan is a loyal and hard-workingman. It follows.

Dated June 6, 1932.

Dear Mr. A. A. Ylagan: If you find it convenient, please call at this office some day this week and we will talk some other station where perhaps the Superintendent will not use the same plan of cleaning as is used at Watt Station. I would like to have you placed where you could do your best work for the reason I know you wish to render good service. Respectfully yours, P. P. O'Brien, Postmaster.

This is taken from the original leaflets distributed to all classes of peoples in the City and County of San Francisco, California. To The General Public.

Ladies and Gentlemen: You are cordially invited to hear the case of postal employee who had taken and passed a written competitive examination on February 2, 1929, and then

was appointed to a position within Postoffice Department on July 1, 1929, and after over six years in the service, he was wrongfully removed from his position by new Postmaster who was not acquainted with said employee's good works and character as a legal minded youngman. The letter of removal contains no specific preferred charges, viz: What kind of work a removed employee has disobeyed? And under what circumstances, similar to a charge of an arresting officer that "X" is a thief, nevertheless no evidence introduced before the court, what kind of thing that "X" has stolen, and in what place it occurred? The removed employee A. A. Ylagan has two different letters received from his former chief old postmaster under whom he had worked for five years without single trouble, and from U. S. Civil Service Commission, Washington, D. C. which letters are authentic ones introduced as exhibits exposing the malicious motives of removing officer. Likewise, a legal opinion from several lawyers contends that plaintiff Ylagan was erroneously discharged from his position, hence he is obviously entitled to both legal and equitable redress being sought. The case to be heard on motion to enter the judgment for plaintiff and against defendant United States, Room 307, Postoffice bldg., San Francisco, California, on third Monday, September 18, 1939, at 10:00 a. m. Ylagan v. United States No. 21243-R. The questions involved in the above case are:—(1) Is the plaintiff, Ylagan, a classified employee? (2) Has plaintiff been removed in accordance to law? (3) Has the District Court of Federal Government any jurisdiction to review a breach or departure from United States Constitution and other laws of the United States, etc.? The plaintiff above named will appreciate very deeply your attendance at the hearing set on date mentioned, because he trusts that a public opinion from you as Christian and civilized peoples irrespective of races, will help him to get square deal from U. S. district courts upon his money claims and reinstatement to Postoffice Department. Said plaintiff has taken already his complaints to the proper authorities namely: U. S. District Court, U. S. Civil Service Commission, U. S. Treasury Department, Speaker of the U. S. House of Representatives, Judiciary Committee of the Congress of United States,

Clerk of U. S. House of Representatives, Secretary of U. S. Senate, and to Hon. Franklin D. Roosevelt, President of United States of America, Washington, D. C. Very truly yours, sgd. A. A. Ylagan, Plaintiff (Postal Employee) representing as a Lawyer in propio persona.

Letter from plaintiff to Hon. Judges of U. S. Court of Claims, Washington, D. C. Dated February 13, 1944.

Gentlemen: I believe that you are already well informed, the records of the above entitled civil case show steady prosecution within United States Courts and government officials, without committal of any violence by plaintiff for nine years ever since his wrongful removal from classified postal civil service position, and it is a very long record of patience of aforesaid petitioner. Likewise I do believe that the acts of Congress of United States on March 3, 1863 and June 25, 1868 have discussed the principle of law regarding jurisdiction of court; and because of the fact, neither the U. S. dist. court in San Francisco, California, nor any government official particularly the Chief Executive Hon. F. D. Roosevelt, President of United States, had dealt with considerable merits of this case, will that U. S. Court of Claims be kind enough to go into its merits for an equitable relief demanded in the petition filed with that court since September 4, 1943? A certified copy of letter from Hon. Sheridan Downey, Senator from California, which letter was addressed to petitioner, it speaks for itself that, I cannot do anything relative to your instruction given me on December 6, 1943; for that reason, may I hear from you about your decision based on facts and conclusions of laws involved in aforesaid petition? I am determined to prosecute that civil case up to all authorities vested with jurisdiction as well to Supreme Court of United States, if it is necessary for a friendly and brotherly settlement of claims confined to both the eyes of laws and the eyes of God. Hence I do hope to receive your lovely response to this present formal letter, and you may be assured that your consideration will be greatly appreciated (reciprocated). Very sincerely and respectfully yours, Anastasio A. Ylagan.

Please take notice, copies of the above letter had been mailed to Pres. F. D. Roosevelt, Pres. M. L. Quezon, Vice-president S. Osmena, Senator Pat. McCarran from Nevada, Catholic Archbishop Most Rev. Michael Curly, and to Consul Generals of different nations such as Mexico, China, Canada, Argentina, Spain, and to U. S. attorney general c/o Mr. John B. Miller, Attorney.

An Open Letter. Formal. 1913 Pennsylvania Ave., N. W., Wash., D. C. March 10, 1944. Hon. Franklin D. Roosevelt, President of United States, Washington, D. C. Subject. Petitioning to grant a permission to sue Defendant United States for $100,000.00 for breach of section 43 postal laws and regulations, in the case of *A. A. Ylagan,* v. *United States,* No. 45948 now still in U. S. Court of Claims, Washington, D. C.

Dear Hon. President: The above entitled civil case has records of steady prosecution for nine consecutive years within United States Courts and government officials vested with jurisdiction upon claims adversely to United States Government. In spite of petitioner's request to U. S. Court of Claims on February 13, 1944, to go into considerable merits of the case supra, and thereafter give due consideration, the said U. S. Court of Claims has failed to settle the claims in the petition filed since September 4, 1943. The breach of section 43 postal laws and regulations has seriously damaged plaintiff's career, position, his citizenship has been ruined, simultaneously his irreproachable conduct, and the attorney's fees and miscellaneous expenses to a nominal amount of $100,000.00 (One hundred thousand dollars). However, plaintiff is willing to accept any amount for settlement of claims based on fair justice; for that reason, I do hope that you and men and women churchgoers in the United States will never tolerate to be trampled forever the morale and ethics of United States Government, because of failure of all parties concerned to uphold the Philosophy of Jesus Christ, "What for the King Is to the King, and What for God Is to God". To expedite matters which require your immediate proper attention, action and consideration, you may just affix your signature on the item below, and please return it to the sender as soon as possible.

Sincerely yours, Anastasio A. Ylagan, LL. B., Prosecutor representing as a Lawyer in propio persona. Requested consent to sue United States for $100,000.00 (One hundred thousand dollars) is hereby granted. Dated .....
Sgd. ..... President of the United States.
Please take notice, petitioner Ylagan says, no answer to above letter has been received.

Office of the President of the Philippines, Manila, July 6, 1938. Mr. Anastasio A. Ylagan, 2085 Bush Street, San Francisco, California, U. S. A.

Sir: I beg to acknowledge receipt of a copy of your letter dated June 2, 1938, addressed to the General Accounting of the United States Comptroller General, and to inform you that the contents thereof have been duly noted by this office. Very respectfully, Jose G. Sanvictores, Acting Assistant Secretary to the President.

The following letters are a legal opinion from several professional lawyers, stating that petitioner's claim deserves an equitable relief.

To Whom It May Concern: I have examined the various papers presented to me by Anastasio A. Ylagan, who for over six years in the Los Angeles Postoffice having been appointed as such after successfully completing a competitive Civil Service examination for the position. I am further convinced that he was wrongfully discharged or removed from his aforesaid position without due cause and contrary to the provision of the Postoffice Department and the Civil Service Commission for the removal of employees. There is no question in my mind that he is entitled to reinstatement and that his removal from the service was prompted by and accomplished thru prejudice. Edward D. Mabson, Atty. at Law, 333 Kearny Street, San Francisco, California, February 17, 1939.

To Whom It May Concern: This is to certify that I have known Anastasio A. Ylagan, a former postal employee of the United States Postoffice at Los Angeles for over one year; that I have been requested by said A. A. Ylagan to

help him in his petition to obtain redress from the United States' Government for his being discharged without the proceedings being had; that I have had the opportunity of examining the various letters and documents he has in his possession in connection with his request for reinstatement and demand for damages; that I believe he has just grounds for some equitable adjustment of his claims. Saburo Kido, Attorney at Law, 1623 Webster Street, San Francisco, California, Phone Walnut 0744. Dated February 27, 1939.

To Whom It May Concern: We, the undersigned, professional attorneys (members of State Bar Association) are well informed and believe upon information hereof stated that the bearer Anastasio A. Ylagan is a classified employee under the U. S. Civil Service, and that his removal from the Postoffice at Los Angeles, California, is without cause as per official records shown us, and that the U. S. District Court and U. S. Circuit Court of Appeals, both courts have an original jurisdiction over claims against United States, where the amount of claim does not exceed $10,000.00 (Ten thousand dollars) in accordance to Title 28 Section 41, U. S. C. A. Very truly yours, Sgd. John F. Harrell, P. O. Address, 1 Montgomery Street, San Francisco, California; Henry J. Meadows, P. O. Address 622 Washington Street, San Francisco, California. Dated November 27, 1937.

This is a letter mentioned in the answer of plaintiff to a letter of removal. This was filed with Postmaster General at Washington, D. C. thru Registered Mail. 205 North Broadway Street, Los Angeles, California, July 10, 1935. Hon. James A. Farley, Postmaster General, Washington, D. C. Subject. Praying for both legal and equitable relief.

Dear Hon. Postmaster General Farley: This actual communication is now demanding with due respect and courtesies a settlement of damages of One Million Dollars, cash money be paid to Mr. Anastasio Ylagan y Agoncillo, removed from the Postoffice Department by Imposition of odd (obsolete) charges, false, fictitious, and aggressive ones, nuisance and repugnant to the eyes of law and the eyes of

God. In the event of premature death of Mr. Anastasio Ylagan y Agoncillo supra, this case to be continued until the exemplary damages is paid to his nearest relatives in the Philippines. I am also praying in a friendly and brotherly manner, a "Mandatory Order" be issued against Postoffice department and all parties concerned, the final paper of naturalization citizenship he has applied for, as well all damages be granted without unnecessary delay which might be caused perhaps by subversive politics, destructive to democratic government for the betterment of Uncle Sam. My specific charges against all parties supra, follows in detail with well founded explanation why I must be paid off in my claim. All charges against me being obsolete ones, immaterial and irrelevant, they were repudiated by Ex-president Herbert Hoover, Ex-Postmaster Walter F. Brown, and Ex-Postmaster P. P. O'Brien, under whom the complainant had worked for five years without trouble. The count of my charges is itemized as follows: (1) For mental suffering I've been complaining directly to U. S. Congress, Postmaster Generals, and U. S. Civil Service Commission, Washington, D. C. The letters from Hon. W. W. Howes, First Assistant Postmaster General dated February 15, 1935; U. S. Civil Service Commission of June 26, 1935 sgd. Wm. C. Hull, Executive Assistant. Both letters addressed to me were disregarded by new postmaster Mr. Henry B. R. Briggs. In my suffering I had headaches, oftened dreamed on bed, did not have good sleep, had nervousness, and lost of appetite periodically.

(2) For exposing me into pillory or public contempt in several transfers from one postoffice station to another station to be misunderstood by some postal officials coworkers and new costumers of the postoffice department, viz. Mr. P. P. O'Brien, ex-postmaster was also even misunderstood by some peoples when he was put on the spots by some postal official coworkers.

(3) For fifteen working days with pay not yet taken, for which I've been complaining long ago. I was misled to a wrong date when I asked for it. I have worked for six years and yet had taken only five times vacation paid, since July 1, 1929 to June 30, 1935. Vacation not yet taken is within

period of 1931 to 1935. The postoffice at Los Angeles, California must produce the slip signed by myself that I had taken it and not unlawfully and premeditedly deceived.

(4) For $1320.00 per annum salary as per examination taken and passed before I entered the service. I was paid only $1020.00 in first year, and $1080.00 maximum grade, minus a compulsory reduction unlawfully imposed upon little fellows. During the time, there was an official order issued by U. S. Congress, that, all employees receiving below $1200.00 per annum shall be exempted from postal revenue, which reduction was an indirect taxation which caused great burden upon poorly paid postal employees.

(5) For sixteen days off my regular job, on account of written order of suspension without pay, founded upon abominable inclination to remove me from the Postoffice. This penalty is a direct and conclusive evidence of cruelty to a human being, small fellow in the service and subject of small country or nation unable to fight by means of ammunitations, force of arms. The same evidence is a second degree of robbery.

(6) For professional services in answering letters of imposition of illegal foundation, and for postoffice stamps used in answering through the mail be request, for which I had spent a lot of my own money and time.

(7) For four years no christmas gifts, each year of December 25, due to official order saying "Stop giving christmas gifts to A. A. Ylagan". Another evidence, it is a regular tradition in the postoffice at Los Angeles, California, supervisors, clerks and carriers used to tender a Santa Claus or christmas gifts each year to janitors. Proof, in my first two years in the service, I received plenty of gifts each year, then it was cutoff finally, and the result I was the only one received nothing for the last four years up to 1935.

(8) For willful, unlawful, and aforethought aggressive motives, objectives, and intentions to distort or destroy my application to be naturalized citizen, and for having it delayed and still unissued to date July 10, 1935.

(9) For willfully and unlawfully, maliciously and premeditedly ruining my good social standing and personality as a clean and law abiding citizen of the Philippines, and as a bona fide subject of Uncle Sam, loyal to him for a sacred love to all peoples irrespective of races, color or nationality.

(10) For threatening me with bodily harm or homicide me when I was told I must get out of the Postoffice, otherwise something horrible thing will happen to me. I answered them, nevertheless my life belongs to me as God created me, but, my position or job belongs to the postoffice, thus my life must be safe before all. Had I been murdered and then charged that I suddenly became insane, held the postoffice, and began shooting some good coworkers at station whereby I was assigned to work, and thereafter shown and exhibited as affidavits their letters to me, without exposing my answers to them, and have had no chance to talk with me the investigating officers of the court, although the court officers are unbiased for the sake of real justice, love and respect for humanity, and love for God in the Heaven, same officers and other false witnesses will surely declare that am guilty, therefore, no damages can be granted to my folks for the logical grounds, it was a lawful homicide by postal officials acting in self-defense in the upholding of their duties.

(11) For criminal intent to rob my own time. For clear informations please see carefully my time cards, pay checks with my notations. "Robbing of my own time, meaning to say, robbing my daily bread". Another undisputed evidence, sixteen days off on Dec. 6 to 21, 1934, remain unpaid, thus it is a Prima Facie evidence of malicious motives or objectives per se, in throwing me out of work by "Trespass Vi Et Armis", not by reasonable ground, but by force of arms or political influence.

(12) For depriving me of using office telephones and official stationaries for official business about my complaints. For finding where my pay checks had been missent in time of pay day. To substantiate these things, please see my previous time cards and pay checks bearing my notations and signature in my own handwriting covering the period

from Jan. 1934 to July 6, 1935, since ex-postmaster P. P. O'Brien had left the service.

(13) For court expenditures, attorney's fees, miscellaneous ones, and other damages may result in the future from time to time. I was removed effective July 6, 1935, without due process of law. I am demanding with due respects and courtesies that all money belonging to me including retirement funds be paid me as soon as possible without unnecessary further delay.

Remarks: I like to state that all good peoples christians, whether Americans or non-americans should back up my side, because, my principles of fighting are merely confined to destroy and overthrow a certain politician who has a selfish unwarranted ideal to encroach upon my private legal rights and depriving me of my constitutional rights, and the rights of other little fellows deserving a meritorious considerations to our organic law U. S. Constitution. Likewise I desire everybody should be th-roughly well informed from the very beginning I have been using good words, beautiful expressions and irreproachable courtesies to all superiors and coworkers, and despite all my best efforts, I was severely penalized in different occasions. Had I ever used strong wordings which injured somebody's feelings and sentiments, it is due perhaps to peculiar fact, I am a human being, who, can no longer tolerate a cruelty to a human being, e. g. A master who hits a dog an irrational animal divested of good reasons, if same master gets bitten or get killed by innocent dog, said dog can never be blamed on account of material facts, his master perhaps is insane, and does not like to be respected by a dog. Now then, how a person or human being innocent should feel the extreme penalty imposed upon him by any strong man unchallengeable to small fellow in the postoffice, who has no gun or any strong weapon capable to blow up into pieces the most aggressive man? Furthermore, the former postmaster P. P. O'Brien who was well acquainted with my custom, character, and works, under whom I had worked for five years without single trouble. However, the new postmaster Briggs had laid me off for 16 days no pay on Dec. 6 to 21,

1934, and finally I was removed from the service effective immediately on July 7, 1935. I cited the evidenciary fact to prove and establish the whole truth that Mr. Henry B. R. Briggs now postmaster has too much racial prejudice against me, simply because I, being a Filipino helpless in the postoffice, seems insignificant to him. I wonder if Mr. Briggs knows that an attorney is purported to be possessed of highest better ethics as compared to an ordinary layman. That is my emphasized statement on the ground, that, such charge of insubordination is absolutely impracticable and entirely inadmissible to me and to those sincere lawyers towards good morality as an example to general public as a whole. Henceforth, I desire if all truthful christians can curb and traverse such racial prejudice against me. In the event said postmaster Briggs thinks or believes there ever was disobedience, such disobedience must be similar to a lawful murder in selfdefense of an aggrieved party, thus my plea is in "An Abatement", for having been maltreated or rather exploited by obvious egotism of Mr. Briggs, who thinks that he is the only man doing the right things for the right place. The sixteen days suspension in 1934, was hidden from the records of U. S. Civil Service Commission as per letter dated June 26, 1935.

The last transfer of station, again it was against my will, on December 22, 1934, in the airmail and stamping station and therefrom extracted by Mr. A. L. Maynard and brought me up to "A" building in his place, where he began teasing me like dog an irretional animal. The charges against me by Mr. Briggs new postmaster might work out on feeble minded peoples and dumb-bell employees. His most unpardonable sins consumated relate to a new law recently passed by United States Congress that all regular postal employees to work forty hours only each week beginning October 1, 1935, with same salary, instead of forty-four hours per week. That new postmaster brother Briggs, has reflected my expectation to obtain more salaries or wages for regular employees underpaid, for which I have been fighting for about four years to-date. I wish that all executive officers concerned with jurisdiction over postal employees should hold the retirement funds and other assets of all persons who will falsely testify against me for exam-

plery damages mentioned in here, and they be held criminally in accordance to circumstances. Please in the meantime issue a written consent for a civil suit asked in here so that I could sue the U. S. Government care of United States Postoffice Department. For some other particular things, I like to state there are some peoples within the postoffice at Los Angeles, California who are very egotists and they are giving bad examples to mere subordinate employees, and many of course are good peoples just like my own legitimate brothers and sisters as to my sociological test made during my association with them during over six years up to July 6, 1935 exclusively. Everybody must believe me I am just seeking an adequate redress or relief which I deserve to get for square deal beyond discrimination. Many thanks for a proper kind attention, action and consideration to be given this present letter of formal complaint. Very sincerely and respectfully yours, Sgd. Anastasio Ylagan y Agoncillo.

Certificate of Counsel in Personam.

I hereby certify that I have prepared myself and examined by myself the foregoing petition, that in my opinion it is well founded and entitled to the favorable consideration of this Court, and that it is not filed for the purpose of delay.

Very sincerely and respectfully,

ANASTACIO A. YLAGAN.

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In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 940

ANASTASIO A. YLAGAN, PETITIONER

v.

THE UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the Court of Claims (R. 6–7) is not yet officially reported.

JURISDICTION

The judgment of the Court of Claims was entered on March 6, 1944 (R. 7). The petition for writ of certiorari was filed on April 28, 1944. The jurisdiction of this Court is invoked under Section 3 (b) of the Act of February 13, 1925, as amended by the Act of May 22, 1939, 28 U. S. C. sec. 288 (b).

QUESTION PRESENTED

Whether petitioner's suit for damages on account of his alleged improper dismissal from the Federal service and for alleged underpayment of salary prior to discharge, brought more than eight years after such discharge, was barred by Section 156 of the Judicial Code requiring that suit on a claim against the United States be brought "within six years after the claim first accrues."

STATEMENT

Petitioner brought suit in the Court of Claims on September 4, 1943, to recover damages for his alleged improper dismissal from the Federal civil service and for salary allegedly due prior to dismissal. The petition alleged (R. 1–5) that petitioner was employed by the United States as a janitor in the Post Office at Los Angeles, California, from July 1, 1929, to July 7, 1935; that he was entitled to an entrance salary of $1,320 per annum, but was paid only $1,020 the first year and $1,080 per annum thereafter; and that he was improperly removed from office by the new postmaster on July 7, 1935.

The United States moved to dismiss the petition (R. 5) on the ground that the action was barred by the statute of limitations (Sec. 156 of the Judicial Code; 28 U. S. C. 262), which provides in part:

> Every claim against the United States cognizable by the Court of Claims shall be

> forever barred unless the petition setting forth a statement thereof is filed in the court, or transmitted to it by the Secretary of the Senate or the Clerk of the House of Representatives, as provided by law, within six years after the claim first accrues.

The Court of Claims granted the motion and dismissed the petition (R. 7).

ARGUMENT

The Court of Claims properly held (R. 7) that petitioner's claim for salary and damages accrued not later than 1935, when suit thereon could first have been brought, and hence was barred by the six-year statute of limitations.[1]

1. Petitioner's alleged cause of action for back salary accrued when the salary would have been payable, i. e., not later than July 7, 1935, when petitioner was dismissed.[2] *Howard University* v.

[1] While petitioner also prayed reinstatement, the court below properly declined to consider this question, since the jurisdiction of the Court of Claims is confined to the rendition of money judgments. Act of March 3, 1887, 24 Stat. 505, 28 U. S. C. 250; see *United States* v. *Sherwood*, 312 U. S. 584, 588; *United States* v. *Jones*, 131 U. S. 1, 18.

[2] Since the petitioner's action was brought more than eight years after his dismissal from service, there is no occasion to consider whether his last salary installment became payable on the day of removal or at the end of the month or other pay period. Cf. *Smith* v. *United States*, 98 C. Cls. 392, 396. Government employees whose compensation is fixed on an annual basis (as was petitioner's) are paid semi-monthly. See 20 Comp. Gen. 834; Op. of Comp. Gen. B-40532, March 18, 1944.

Cassell, 126 F. (2d) 6, 9 (App. D. C.), certiorari denied, 316 U. S. 675; *Withers* v. *United States,* 69 C. Cls. 584, 587. Likewise, his claim for damages on account of improper dismissal from the service accrued on July 7, 1935, the date of the dismissal. *Nicholas* v. *United States,* 257 U. S. 71; *Norris* v. *United States,* 257 U. S. 77; *Caswell* v. *Morgenthau,* 98 F. (2d) 296 (App. D. C.), certiorari denied, 305 U. S. 596; *O'Neil* v. *United States,* 56 C. Cls. 89; *Johnson* v. *United States,* 87 C. Cls. 270. Consequently, the petition, which was filed on September 4, 1943 (R. 1), was barred because not filed "within six years after the claim first accrues." Jud. Code § 156; 28 U. S. C. 262.

2. Petitioner admitted below that his petition was not filed within the six-year period prescribed by the statute, but, in the language of the court below, sought "to avoid the effect of the statute by setting forth the industry with which he pursued what he honestly believed to be his remedies, *viz.,* claims or complaints to the Civil Service Commission, the Postmaster General, the Congress, the Comptroller General, the Treasury Department, and others, and suits in other courts, all to no avail" (R. 6). In this connection, petitioner argued below, as he does here, "that the statute did not begin to run until July 11, 1941, when, as he alleges, his last suit against the United States was dismissed for lack of jurisdic-

tion" (R. 6). The court below properly rejected this contention on the ground that the statute was "not tolled by the failure of other supposed remedies" (R. 7). The submission of a claim to a Government department will suspend the running of the statute of limitations only if such submission and departmental action on the claim are conditions precedent to the claimant's right to institute court proceedings. *United States* v. *Utz*, 80 Fed. 848 (C. C. A. 3); *Kennedy* v. *United States*, 79 Fed. 893 (C. C. N. Y.), affirmed on other grounds 95 Fed. 127 (C. C. A. 2); *Moriarity* v. *United States*, 97 C. Cls. 338; *Battelle & Evans* v. *United States*, 7 C. Cls. 297. Nothing in the statutes or rules relating to employment in the Federal civil service or, more specifically, in the Post Office Department, suggests that a discharged employee must request reconsideration of his dismissal before instituting court action.[3]

[3] Section 6 of the Act of August 24, 1912 (c. 389, 37 Stat. 555, 5 U. S. C. 652) prohibits removal of persons "in the classified civil service of the United States * * * except for such cause as will promote the efficiency of said service and for reasons given in writing". It requires that the employee be given notice that his removal is sought "and of any charges preferred against him," and be allowed "a reasonable time for personally answering the same in writing * * * but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal". The petition for certiorari discloses (pp. 26–27) that prior to petitioner's removal he was given the required notice and "instructed to make a written reply" to the charges.

CONCLUSION

The judgment below is clearly right. It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

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JUNE 1944.

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